
THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

TERAP SEID,

Plaintiff,

v.

AMAZON.COM SERVICES, LLC,

Defendant.

**ORDER ADOPTING [12] REPORT AND
RECOMMENDATION**

Case No. 2:23-cv-00706

District Judge David Barlow

The Report and Recommendation issued by the magistrate judge on May 5, 2024 recommends that the court dismiss Plaintiff Terap Seid’s case without prejudice for failure to serve the Defendant, Amazon.com Services, LLC (“Amazon”).¹ Federal Rule of Civil Procedure 4(m) requires that service be completed within ninety days of filing a complaint. After failing to serve Amazon within ninety days of filing the Complaint, the magistrate judge ordered Mr. Seid to show cause why his case should not be dismissed for failure to prosecute.² Mr. Seid then filed a motion to have a lawyer appointed to represent him,³ which was denied because Mr. Seid failed to provide a basis for an appointment of counsel.⁴ In the same order, the magistrate judge extended the deadline for Mr. Seid to show cause why his case should not be dismissed until March 21, 2024.⁵ However, on March 18, 2024, Mr. Seid again filed a document requesting the

¹ R. & R. to Dismiss Case, ECF No. 12, filed May 5, 2024 [hereinafter R&R].

² Order to Show Cause, ECF No. 5, filed January 8, 2024.

³ Mot. for Appointment of Counsel, ECF No. 6, filed February 8, 2024.

⁴ Order to Show Cause, ECF No. 7, filed February 21, 2024.

⁵ *Id.*

court to appoint him an attorney.⁶ The untitled document failed to describe any attempt to serve the Defendant or demonstrate good cause why he failed to do so.⁷ The magistrate judge provided one final opportunity for Mr. Seid to comply with the court's order by May 9, 2024.⁸ Further, the order explained that his case may be dismissed regardless of whether Mr. Seid obtains counsel or files other motions.⁹ On May 8, 2024, Mr. Seid filed a response, but the document failed to address his failure to serve Amazon.¹⁰

In the Report and Recommendation, the magistrate judge observed that the court has given Mr. Seid many opportunities to provide service of process.¹¹ Because Mr. Seid has repeatedly failed to comply with Rule 4(m) of the Federal Rules of Civil Procedure, the magistrate judge determined that he was "left with no choice but to recommend dismissal of Mr. Seid's case."¹² Mr. Seid was advised of his right to object to the Report and Recommendation within fourteen days of its service pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).¹³

Mr. Seid did not file an objection within fourteen days. Therefore, the court reviews the Report and Recommendation for clear error.¹⁴ Having done so, the court finds that the magistrate judge's analysis and conclusions are sound and no clear error appears on the face of the record.

⁶ Untitled Doc., ECF No. 8, filed March 18, 2024.

⁷ *Id.*

⁸ Order Extending Deadline to Show Cause, ECF No. 9, filed March 28, 2024.

⁹ *Id.* at 3.

¹⁰ Resp. to Ct. Order to Show Cause, ECF No. 10, filed May 8, 2024.

¹¹ R&R 3.

¹² *Id.*

¹³ *Id.* at 4.

¹⁴ *Johnson v. Progressive Leasing*, No. 2:22-cv-00052, 2023 WL 4044514, at *2 (D. Utah June 16, 2023) (citing *Johnson v. Zema Sys. Corp.*, 170 F.3d 734, 739 (7th Cir. 1999)). "[A] party's objections to the magistrate judge's report and recommendation must be both timely and specific to preserve an issue for de novo review by the district court or for appellate review." *Port City Props. v. Union Pac. R. Co.*, 518 F.3d 1186, 1190 n.1 (10th Cir. 2008) (alteration in original) (quoting *United States v. 2121 E. 30th Street*, 73 F.3d 1057, 1060 (10th Cir. 1996)).

Accordingly, IT IS HEREBY ORDERED that the Report and Recommendation¹⁵ is ADOPTED. The court DISMISSES Plaintiff's action without prejudice.

Signed June 5, 2024.

BY THE COURT



David Barlow
United States District Judge

¹⁵ ECF No. 12.